

Serial No.: 10/717,629
Atty. Docket No.: P64761US2

R E M A R K S

The Office Action mailed January 19, 2005, the objections and rejections set forth therein have been carefully considered and the application has been amended accordingly.

Initially, the status of the parent application as to the patent no. and issue date has been included in the specification. Likewise, the listing of the claims and their current status has been included in the --Listing of Claims--.

In response to the detailed action and the indication that the IDS filed November 21, 2003 does not include the serial no. of the filed Information Disclosure Statement is noted. However, the IDS filed November 21, 2003 was a copy of the PTO Form-892 which issued in serial no. 10/067,999 as indicated in paragraph 13 in the transmittal form accompanying the present application when it was filed on November 21, 2003. Clearly, the IDS which was filed at the same time as the present application could not be identified by a serial no. which was not assigned to this application until the Filing Receipt was mailed on February 20, 2004. Accordingly, applicant submits that the copy of the IDS from the parent application is appropriate and is in accordance with the rules of practice.

Regarding the objection to claims 15 and 33, these claims have been amended to set forth that the excavation is to a height

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approximately "equal to or slightly less than height of said pedestal section" which is the terminology set forth in the specification on page 27 line 17-21. It is believed that the amendments to claims 15 and 33 overcome the objections regarding the relationship between the height of the excavation.

Claims 15-22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson (U.S. Patent No. 5,586,417). This patent discloses a foundation as described by the Examiner in the rejection except that the prior Henderson et al. patent does not disclose a spread section. The concrete between the inner corrugated pipe and the outer corrugated pipe 12, 14 designated by reference numeral 68 is poured to the bottom of each of the channel members 38 and to the top of each of the blockout bodies 64. Thus, the concrete has a substantially continuous and constant inner diameter and a substantially continuous outer diameter from top to bottom and does not disclose a pedestal section and a perimeter wall section and a spread section interconnecting the pedestal section and the perimeter wall section and does not disclose excavating a pit, excavating a trench around an outer perimeter of the pit with the relative dimensions as set forth in claims 15 and 33. Further, the '417 patent does not disclose a pouring of concrete into the trench and onto a portion of the base of the pit to form the perimeter wall section and the spread section. The

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only pouring of concrete in '417 is a one time pour into the space between the inner and outer pipes 12 and 14. Therefore, it is believed clear that the method steps as defined in claims 15-22 and claims 33-36 are not disclosed or suggested in the '417. Rather, a person of ordinary skill in the art of forming foundations such as disclosed in the '417 patent would not find it obvious to use the procedure and method as defined in the claims pending in this application.

In this regard, the only teaching in the '417 patent is to provide a pit with inner and outer corrugated pipe to the same depth as the pit and then pouring a cylindrical or annular column of concrete from the bottom of the pit to the top of the corrugated pipe. No suggestion, teaching or concept is disclosed in the '417 patent of providing a trench around an outer perimeter of the pit, then pouring concrete into the trench and onto a portion of the base of the pit to form a perimeter wall section and a spread section. There is no indication of any spread section existing in the '417 patent and no suggestion of pouring concrete into a trench and onto a portion of a base of a ground pit to form the perimeter wall section and a spread section as defined in the claims in this application.

The term "spread" section is a term of art and the Examiner is referred to the prosecution record of the parent

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application which issued as U.S. Patent No. 6,672,023 on January 6, 2004. In particular, references made to the amendment filed August 1, 2002 and Exhibit A filed with that amendment and the detailed explanation and discussion of "spread section" which explains in detail what the term "spread section" means in foundation structure. The '417 patent does not include a spread section and does not include procedural steps or method steps that would result in a spread section.

Also, in the above discussed amendment, beginning on page 17, a detailed discussion and arguments were presented regarding the term spread section in relating to the previous Henderson '387 patent which, in Figure 2 discloses the same basic structure as disclosed in the '417 patent. As set forth in the arguments in that amendment, the prior Henderson patents '417 and '387 disclose only a structure that relates to the pedestal wall section of this invention and does not disclose a spread section and a second annular structure as defined as a pedestal section which is poured subsequent to pouring concrete into the trench and on to a portion of the base of the pit to form a perimeter wall section and a spread section. The structures in the prior Henderson patents clearly do not disclose a spread section interconnecting the pedestal section and the perimeter wall section in which the perimeter wall section is poured into a trench around an outer

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perimeter of the ground pit and forming a spread section by pouring concrete onto a portion of the base of the ground pit as well as into the trench to form the perimeter wall section, and then backfilling soil on top of the perimeter wall section and the spread section and then pouring concrete within the backfilled soil to form the pedestal section. No such method exists in the prior patents to Henderson since none of them include a spread section.

This lack of a spread section is apparently recognized by the introduction of Bressani in view of Examiner's statement that Henderson does not disclose a spread section interconnecting a lower end portion of the pedestal section and an upper end portion of the perimeter wall section as discussed in the rejection of claims 33-36 in the Office Action. This indicates that, in fact, Henderson '417 does not include a spread section even though concrete 68 between inner pipe 12 and outer pipe 14 is interpreted to serve as a spread section in the rejection of claims 15-22. Actually, Henderson '417 does not disclose a spread section. Accordingly, reconsideration of the rejection of claims 15-22 is requested.

Likewise, the rejection of claims 33-36 under 35 U.S.C. 103(a) as unpatentable over Henderson in view of Bressani is also believed to be based upon an interpretation of the prior art not justified by the disclosures in the prior patents. Reference again

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is made to the prosecution record of the parent application and in this instance, the arguments presented in the amendment filed April 30, 2003 in the parent application in which the rejection of claims based upon the combination of Bressani and Henderson were discussed in detail. As indicated in that discussion, the structure disclosed in Bressani includes "a first cylindrical block 10" of concrete material; "the second concrete block 12 of smaller size" which is partially submerged in block 10; "a protective layer 14 of asbestos or plastic" covering both blocks 10 and 12 for appearance purposes; "top of the first concrete block is also covered with decorative stones 16" "tubular sleeve 18 is embedded vertically in the first concrete block and anchored in the concrete by means of a structural member 20" such as a pin or circular plate to receive a pole 22. As in that application, the rejection is based upon a conclusion that it would have been obvious to a person of ordinary skill in the art to combine Bressani with Henderson. However, Bressani does not disclose a spread section foundation as explained in extensive detail in the publications designated as Exhibit A in the amendment in prior patent inasmuch as the term spread footing or spread foundation is a term of art and includes a supporting column generally referred to as a pedestal or pier pedestal centrally mounted on top of the spread foundation. In this invention as claimed, the spread section is provided with a

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depending perimeter footing, designated as a perimeter wall section at the outer perimeter of the spread section which is formed by pouring concrete in a trench in the bottom of the ground pit. No such structure exists in Henderson '417 and no such structure exists in Bressani. Therefore, applicant submits that it is quite clear that neither the Henderson nor the Bressani patents disclose the method of forming the foundation as defined in claims 33-36. Accordingly, reconsideration of this rejection is requested.

Regarding the conclusion that the method steps set forth in the claims is "the obvious method of setting up device because when forming a foundation, one must obviously excavate a pit. However, the conclusion that the concrete section in the prior art serves as a spread section is not an obvious method step in the construction of foundations and the method steps as defined in claims 15-22 as well as in claims 33-36 clearly do not define an obvious method of forming a foundation inasmuch as a foundation was clearly not obvious since the specific relationship of the components of the foundation were considered patentable in the issued patent resulting from the parent application. Accordingly, applicant submits that the method steps for forming the foundation in claim 15-22 and in claims 33-36 distinguish patentably from the prior art and do not set forth an obvious method of forming the foundation.

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In view of the above, early and favorable reconsideration
of this application is requested.

Respectfully submitted,

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